IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No.5230 (M/S) of 2001
(Old No. 4811/93)

Hari Das (Deceased)
1/1 Madhu Sudan Mandal
½ Sushant Mandal S/o Late Sri Hari Das Mandal
1/3 Smt. Sarla Mandal
W/o Late Hari Das Mandal
R/o Village Kali Nagar,
District Udham Singh Nagar ..... Petitioner

Vs

1. State of U.P.
2. District Judge, Nainital
3. Prescribed Authority/ Addl. Sub Divisional Magistrate
   District- Nainital .....Respondents

Sri J.C. Belewal counsel for the petitioner.
Sri R.C. Arya learned Standing counsel for the respondents.

Dated: -6-9-2006

Hon'ble B.S. Verma, J.

Heard Sri J.C. Belwal learned counsel for the petitioner and Sri R.C. Arya learned Standing counsel for the State.

By way of this writ petition, the petitioner has prayed to issue a writ in the nature of certiorari for quashing the orders dated 22-5-1992 and 28-7-1992 passed by respondent Nos. 2 and 3 i.e. Prescribed Authority/ Sub divisional Magistrate, Nainital and District Magistrate, Nainital respectively and he further prayed for quashing the notice dated 1-7-1991 passed under Section 4 of the U.P. Public Premises (Eviction of Unathorized occupants) Act, 1992 issued by Sub-Divisional Magistrate Nainital.

2. Brief facts of the case are that the Sub-Divisional Magistrate issued a notice to the petitioner under Section 4 of the U.P. Public

Premises (Eviction of Unathorized occupants) Act, 1992 on 1-7-1991 against which the objections were filed by the petitioner which were rejected under Section 5 of the U.P. Public Premises (Eviction of Unauthorized occupants) Act, 1992 by the Sub Divisional Magistrate. The Sub-Divisional Magistrate vide order dated 22-5-1992 directed the eviction of the petitioner from the land in question.

3. Feeling, aggrieved by the aforesaid order the petitioner preferred an appeal No. 272 of 1992 Sri Hari Das Mandal Vs. State of U.P. before the District Judge, Nainital which was also dismissed vide order dated 28-7-1992.

4. Feeling aggrieved by the aforesaid orders, the petitioner preferred this petition before the Allahabad High Court, which has been transferred to this Court, for disposal, after creation of new State.

5. I have heard the submissions of the learned Standing counsel appearing on behalf of the respondents –State and Sri J.C. Belwal learned counsel for the petitioner and perused the record.

6. At the outset, it may be mentioned that this Court vide judgment delivered today i.e. on 25-5-2006 in Writ Petition No.3235 (M/S) of 2001 Krishna Kant Vs. Ist Additional District Judge Nainital and others along with 42 others writ petitions have already considered the controversy involved in the present writ petition. All the 43 writ petitions preferred by different petitioners were allowed by that common judgment and it was held that the provisions of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972 were not applicable to the agricultural land and its was open to the State to proceed for eviction of the petitioners under the provisions of the U.P. Zamindari Abolition and Land Reforms Act/KUZA Act and other allied laws in force. It was also observed therein that the petitioners may also get their title declared by filing suit under Section 229-B of the Z.A. and L.R. Act/KUZA Act, provided they establish their stand before the Revenue Court. The learned Standing Counsel fairly

conceded that the present petition is squarely covered by the said judgment.

7. In view of the fact that this Court has already decided as many as 43 similar writ petition by a common judgment today, there is no need to repeat the same material again in the case at hand. The present writ petition is fully covered by the Judgment passed in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. Ist Additional District Judge, Nainital and others along with 42 other writ petitions decided by this Court on 25-5-2006 itself. This writ petition deserves to be allowed on merit in terms of the said judgment.

8. The present writ petition stands allowed in terms of the judgment passed by this Court in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. Ist Additional District Judge, Nainital. No order as to costs.

(B.S. Verma,J)

Date:- 6-9-2006
M.K.